



US Army Corps
of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

NUMBER: 224161N DATE: 6 April 2005
RESPONSE REQUIRED BY: 6 May 2005

PROJECT MANAGER: Peter Straub TELEPHONE: (415) 977-8443 E-MAIL: Peter.S.Straub@spd02.usace.army.mil

1. **INTRODUCTION:** Kaiser Foundation Health Plan, Incorporated (hereinafter "Kaiser"), 1950 Franklin Street, 12th Floor, Oakland, California 94512, through its agent LSA Associates, Incorporated (POC: Ross Dobbertein; Tel: 510-236-6810), has applied to the U.S. Army Corps of Engineers (hereinafter "USACE") for a Department of the Army permit to discharge fill material into jurisdictional wetlands and other waters of the United States to facilitate construction of a medical office facility. The project site is located in the northwest area of the City of Santa Rosa, in Sonoma County, California. This permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. § 1344). Section 404 regulates the discharge of dredged and fill material below the plane of ordinary high water in non-tidal waters of the United States and within the lateral extent of wetlands adjacent to these waters.

2. **PROJECT DESCRIPTION:** As shown in the attached drawings (Figures 1-4), Kaiser is proposing to construct a medical office facility on a 12.7-acre site located at 3975 Old Redwood Highway. The site is bordered by Old Redwood Highway to the east, agricultural land to the north, Highway 101 to the west, and a similar medical office facility to the south. The project would include Medical Office Building 5 (MOB5), a 91,150 square-foot two-story structure; 458 parking spaces; a loading dock and service yard; an emergency generator; a medical gas yard; an ambulance area; pedestrian and vehicular circulation and access; landscaping; and appurtenant utility systems, including sewer, storm-drainage, water, gas and electric, and telephone lines. MOB5 would house numerous medical and support functions, including radiology, occupational medicine, physical therapy, ambulatory surgery, sterile processing, procedure suites, pharmaceutical services, conferencing rooms, staff and outpatient food services, and staff office space.

To ensure compliance with current State water quality requirements, all site runoff would be directed to several vegetated swales located throughout the parking areas; a preponderance of the runoff would be directed to a retention/detention basin situated immediately south of MOB 5. The vegetated swales would be up to two feet in width and maintain a runoff velocity of one-foot per second for optimum treatment of contaminants. The basin would detain increased runoff from 10-, 25-, and 100-year storm events, while promoting the settlement and treatment of runoff before water

flowed off site under Highway 101.

The project would occupy approximately 80 per cent of the site and require extensive excavation and removal of soils unsuitable for construction purposes, grading and compaction of remaining subsoils, and placement of imported engineered fill material for pavement and building pads. These construction activities would require the importation and discharge of approximately 700 cubic yards of clean earth fill into 0.74 acre of jurisdictional waters of the United States, including 0.68 acre of wetlands (seasonal wetland pools and swales) and 0.06 acre of other waters (drainage ditch with wetland vegetation) to establish the final grade elevations for the project. In addition, a proportional volume of this fill material would be discharged into 0.14 acre of isolated wetlands **not** subject to regulation under Section 404 of the Clean Water Act. These non-jurisdictional, isolated wetlands could be considered as "waters of the State" and, therefore, subject to regulation by the Regional Water Quality Control Board under the Porter-Cologne Water Quality Control Act (Water Code 13000 *et seq.*).

3. **PROPOSED MITIGATION:** To compensate for the loss of 0.74 acre of jurisdictional wetland and other waters of the United States, Kaiser is proposing to purchase both preservation and creation credits from an agency-approved mitigation bank located in the Santa Rosa Plain. The mitigation credit purchases would be consistent with the 1:1 acreage replacement ratios specified in the Programmatic Biological Opinion for Vernal Pool Plant Species in the Santa Rosa Plain (USFWS, July 1998). Kaiser further indicates that preservation and creation credits are not currently available for purchase due the dearth of mitigation banks with surplus credits. No Department of the Army permit would be issued for the project until a specific source of mitigation credits has been identified for purchase, or Kaiser alternately pursues the development of a project-specific on-site or off-site mitigation plan to compensate for wetland habitat loss.

4. **PURPOSE AND NEED:** Kaiser indicates the overall purpose and need for the project are to complete the development of a medical office complex with supporting infrastructure to serve the general medical demand and welfare of the public living in Sonoma County. The project would compliment and provide direct vehicular and pedestrian access to the recently constructed medical office building and parking lot immediately to the south. The discharge of fill material into

0.24 acre of seasonal wetlands associated with the MOB4 Project was authorized by USACE under a nationwide permit in June 2002.

5. PROJECT SITE DESCRIPTION: The 12.7-acre site is relatively level, sloping gradually to the west with an elevational change of approximately ten feet. Elevations range from 150 feet to the east and 140 feet to the west. A restaurant is located adjacent to the southeastern corner, and a private residence is located adjacent to the northeastern corner. The Kaiser MOB4 facility was constructed in 2002-2003 on a 5-acre parcel immediately to the south. Past land use practices, including historic filling, recent discing, and various soils remediation measures have resulted in a patchwork of low-lying wetland basins and swales surrounded by slightly elevated upland areas. These land use practices have caused disturbance to and loss of native vegetation.

The project site presently supports a relatively sparse cover of non-native grasses and ruderal broad-leaved plants. Plant species commonly found in the wetland areas include manna grass (*Glyceria declinata*), pennyroyal (*Mentha pulegium*), umbrella sedge (*Cyperus eragrostis*), hyssop loosestrife (*Lythrum hyssopifolium*), rabbit's-foot grass (*Polypogon monspeliensis*), cocklebur (*Xanthium strumarium*), Mediterranean barley (*Hordeum hystris*), and Italian wildrye (*Lolium perenne*). A wetland swale bisecting the site is characterized by umbrella sedge, rabbit's-foot grass, brass buttons (*Cotula coronopifolia*), swamp timothy (*Crypsis schoenoides*), cattail (*Typha latifolia*), and arroyo willow (*Salix lasiolepis*) near the culvert inlet at Highway 101. The surrounding upland areas are dominated by Mediterranean barley, Italian wildrye, and prickly ox-tongue (*Picris echioides*), while interspersed with rabbit's-foot grass, curly dock (*Rumex crispus*), bur-clover (*Medicago polymorpha*), bindweed (*Convolvulus arvensis*), chicory (*Cichrium intypus*), white sweet-clover (*Melilotus alba*), Canary grass (*Phalaris aquatica*), and cocklebur.

6. STATE APPROVALS: State water quality certification or a waiver is a prerequisite for the issuance of a Department of the Army permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act (33 U.S.C. § 1341). Kaiser has recently submitted an application to the Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. No Department of the Army permit will be issued until Kaiser obtains the required certification or a presumed waiver of certification. A waiver may be presumed if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act. Water quality issues should be directed to the Executive Officer, Regional Water Quality Control Board, North Coast Region, 5550 Skylane

Boulevard, Suite A, Santa Rosa, California 95403, by the close of the public notice comment period.

Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c)), requires a non-Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to furnish a certification that indicates the activity conforms with the State's coastal zone management program. Generally, no federal license or permit will be issued until the appropriate State agency has concurred with the certification statement or has waived its right to do so. The project does not occur in the coastal zone, and a preliminary review by USACE indicates that the project would not likely affect coastal zone resources. This presumption on effect, however, remains subject to a final determination by either San Francisco Bay Conservation and Development Commission or the California Coastal Commission.

The project is also subject to local zoning and permitting requirements administered by the City of Santa Rosa.

7. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. § 4321-4347), the Council on Environmental Quality's Regulations at 40 CFR Parts 1500-1508, and USACE Regulations at 33 CFR Part 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities USACE determines to be within its purview of Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army permit for the project.

Endangered Species Act of 1973 (ESA): The project site was initially surveyed for sensitive plant species in 1991 and 1997, and no sensitive plant species were recorded at those times. During the Spring and Summer of 2001, LSA Associates conducted a follow-up survey and did not observe any sensitive plant species on site. In July 2004, LSA Associates conducted a field assessment to determine the potential presence of federally listed endangered California tiger salamander (*Ambystoma californiense*) and did not observe the species on site. There are no known occurrences of tiger salamander within typical dispersal distances from the site, and there are no records of the species existence north of Santa Rosa and east of Highway 101. The site lies outside the designated range for federally listed threatened California red-legged frog (*Rana aurora draytonii*). Based on a review of this information, USACE has made a

preliminary determination that the project would not affect federally listed threatened or endangered plant and animal species, or designated critical habitat.

Magnuson-Stevens Fishery Conservation and Management Act of 1996 (MSFCMA): The project site does not occur with designated essential fish habitat for the Pacific Salmon Fishery, since the wetland drainage swales are remote from the Russian River and lack constituent habit elements necessary for spawning and rearing.

National Historic Preservation Act of 1966 (NHPA): Based on the findings of CEQA documentation on file with the City of Santa Rosa, no recorded historic or archaeological resources are present on the project site or in the immediate project area. Previous land use practices and recent soil remediation events have altered the site topography to the extent that project related grading and excavation activities would not likely encounter intact archaeological resources. If unrecorded archaeological resources were discovered during project construction, those construction operations would be temporarily suspended until USACE concluded Section 106 consultation with the State Historic Preservation Officer to take into account any project related impacts to such resources.

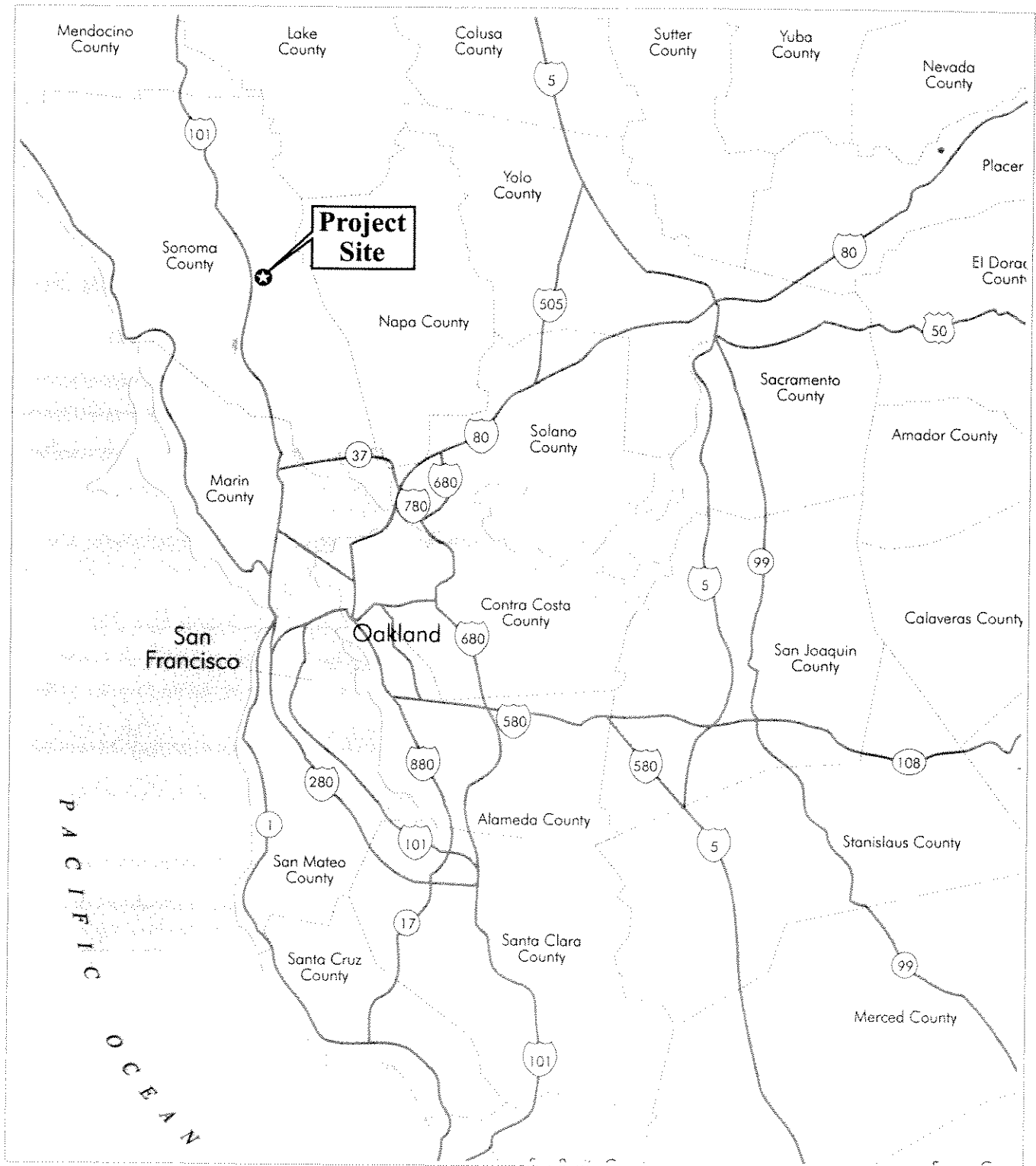
8. COMPLIANCE WITH THE 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the project is **not** dependent on location in or proximity to waters of the United States to achieve the basic project purpose of constructing a medical services building complex. This determination raises a (rebuttable) presumption of the availability of a less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into special aquatic sites. Kaiser has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

9. PUBLIC INTEREST EVALUTION: The decision on whether to issue a Department of the Army permit will be based on an evaluation of the probable impacts, including cumulative

impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

10. CONSIDERATION OF COMMENTS: USACE is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental factors addressed in a final Environmental Assessment or Environmental Impact Statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the project.

11. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to the San Francisco District, Regulatory Branch, North Section, citing the applicant's name and Public Notice Number in the letter. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All comments will be forwarded to Kaiser for resolution or rebuttal. Additional information may be obtained by contacting LSA Associates or Mr. Peter Straub of the Regulatory Branch by telephone at 415-977-8443 or by e-mail at peter.s.straub@spd02.usace.army.mil.



Purpose: Construct Medical Office Building 5

Kaiser MOB5 Project
Santa Rosa, Sonoma County

Near: Piner Creek; Tributary to
Russian River

Datum: NGVD

Regional Location

County of: Sonoma

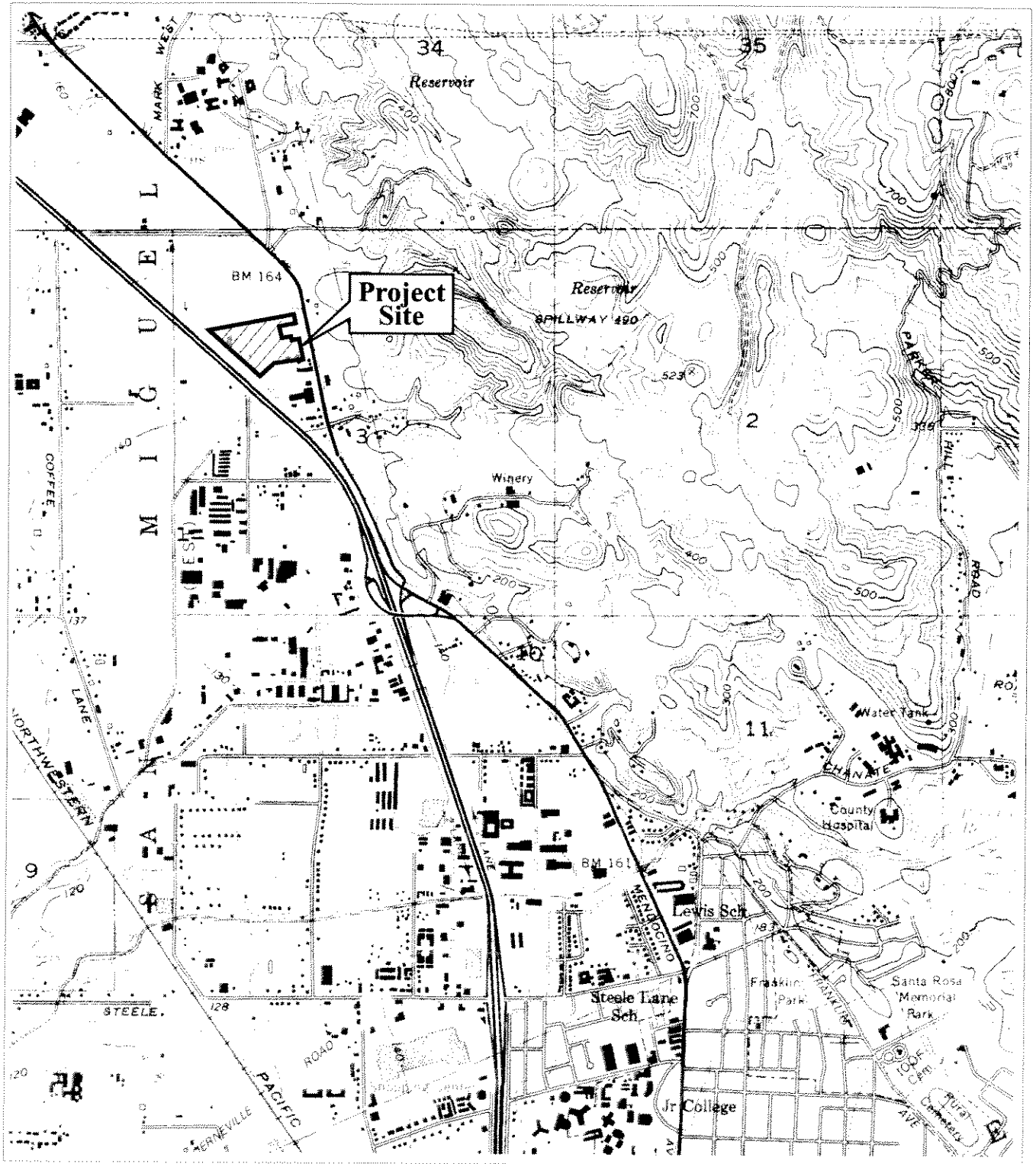
Application by:
Kaiser Foundation Health Care, Inc.
99 Monticillo Road
San Rafael, CA 94903

FIGURE 1 OF 4

LSA



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Purpose: Construct Medical Office Building 5

Kaiser MOB5 Project
Santa Rosa, Sonoma County

Near: Piner Creek; Tributary to
Russian River

Datum: NGVD

Project Site Location

County of: Sonoma

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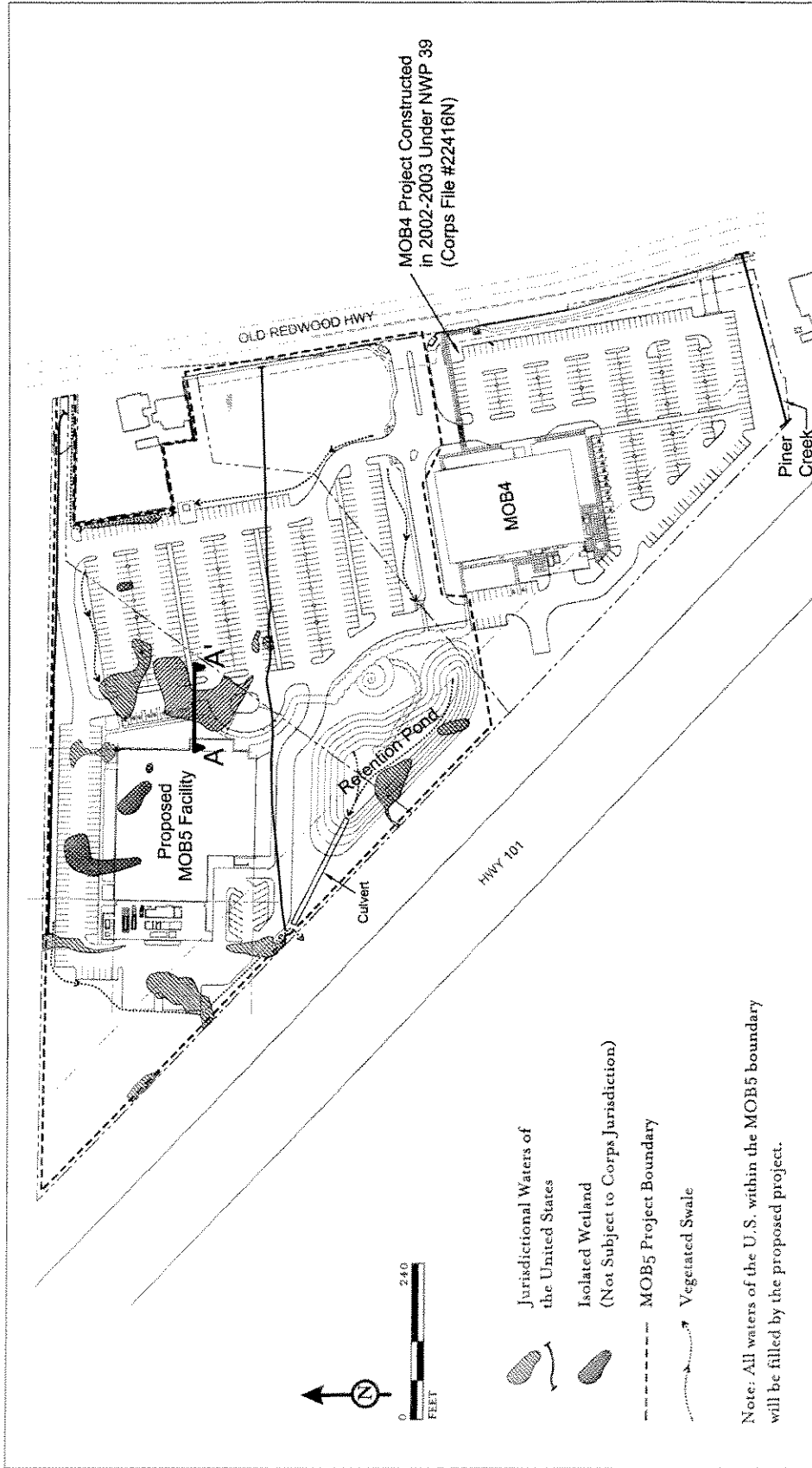
FIGURE 2 OF 4

LSA



Source: USGS Santa Rosa 7.5' quad

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Purpose: Construct Medical Office Building 5

Datum: NGVD

Kaiser MOB5 Project
Santa Rosa, Sonoma County
Development Plan and Wetlands to be Filled

Near: Piner Creek; Tributary to
Russian River

County of: Sonoma

Application by:

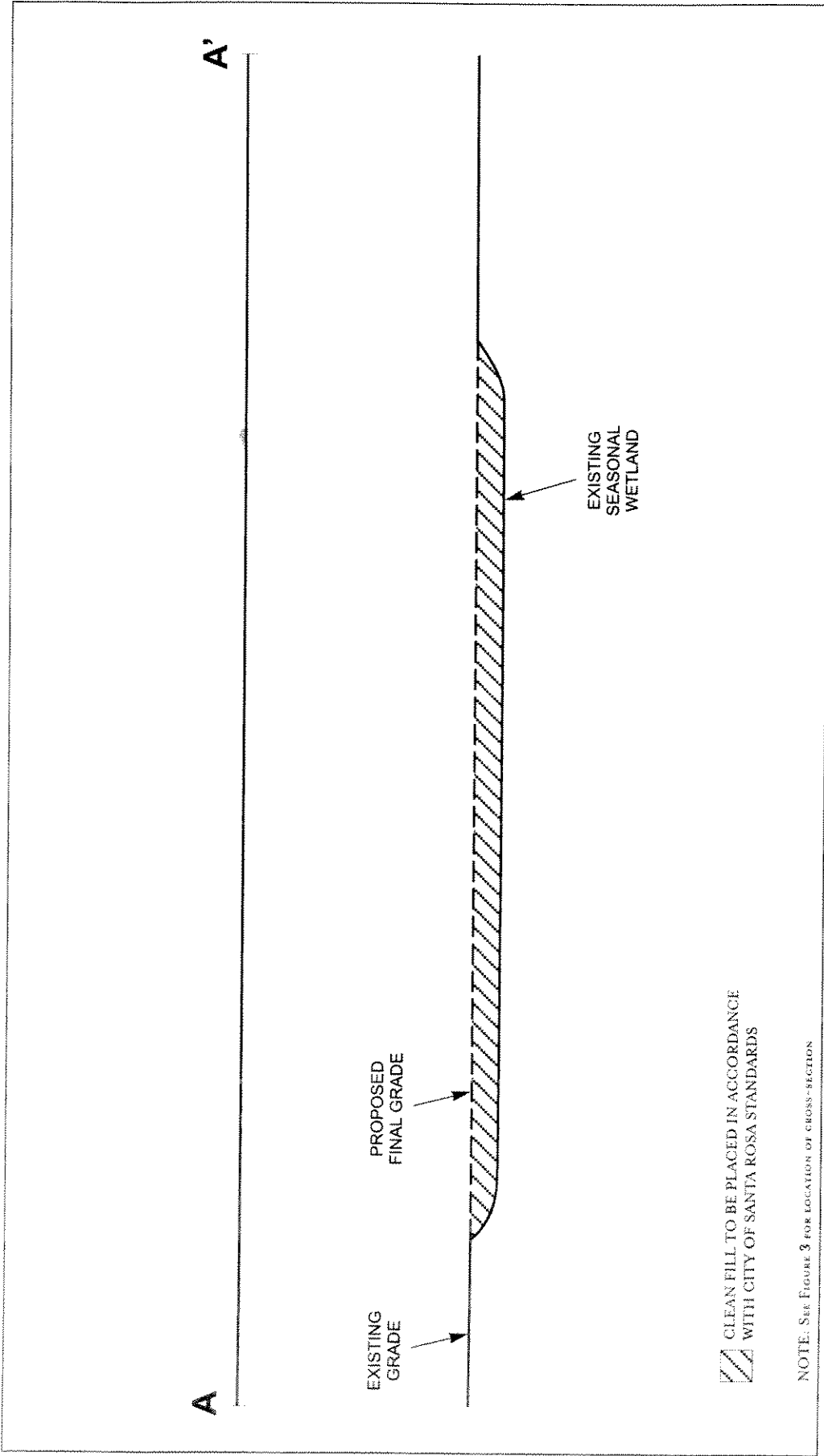
Kaiser Foundation Health Care, Inc.
99 Monticillo Road
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FIGURE 3 OF 4

LSA

Source: Jennings-Ackerly

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Purpose: Construct Medical Office Building 5

Datum: NGVD

Kaiser MOB5 Project
Santa Rosa, Sonoma County

Cross-section View - Seasonal Wetland Fill

FIGURE 4 OF 4

Near: Piner Creek; Tributary to Russian River
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LSA